Civil Misc. App. No.2401/2005
Premchand ***Versus*** Mubarik Hussain & Anr.

Date of Order ::: 07/08/06

Hon'ble Mr. Justice Ajay Rastogi

Mr.Himanshu Agnihotri for appellant (Claimant)

Instant appeal has been filed for enhancement of compensation of Rs.71,700/- awarded by Motor Accident Claims Tribunal, (ADJ Fast Track No.8) Jaipur City vide Award dt.04/05/05 in MAC No.17/05.

Appellant (claimant) aged 25 years met with an accident on 24/05/04 while sitting as passenger in loading Vikram RJ-1G-3764, going from Sanganer to Sitapura, was hit by offending truck No.RJ20-G-3538 which came from behind with a high speed being driven rashly & negligently by its driver as a result whereof, he sustained grievous besides fracture of superior & inferior ram of pubic bones resulting into 12.9% disability. As alleged in claim petition, he was earning monthly salary of Rs.4,500/- while working as driver. After taking note of totality of facts, learned Tribunal awarded compensation of Rs.71,700/- (including Rs.9,000/- loss of income for two months when he remained under treatment for injuries sustained and Rs.52,000/- loss of income due to 12.9% permanent disability; Rs.700/- for medical expenses; Rs.10,000/- towards nutrition diet & physical/mental agony and for transport charges) along with 9% per annum from the date of claim petition. Hence this appeal.

Counsel for appellants submits that looking to nature of injuries and fracture sustained by claimant appellant besides his 12.90% permanent

disability, learned Tribunal ought to have taken note of loss of income assessed for one year and thus erred in computing compensation towards this head for two months and that apart, what has been awarded being not in consistent with Schedule appended to Motor Vehicles Act, requires interference.

I have considered contentions of Counsel for appellant and with his assistance, examined material on record. There is no material placed on record by claimant except his statement (Aw1) to show that he was driving the vehicle wherein he was traveling as passenger or that he remained out of employment for one year as a result of injuries and fractures sustained in the incident in question. Keeping in view nature of injuries sustained and so also 12.90% permanent disability and looking to age of claimant, and in absence of sufficiency of evidence to show that he was out of employment for one year, what has been assessed and awarded by learned Tribunal on totality of facts on record, in my opinion, being just requires no enhancement of compensation on any of heads. Consequently, this appeal fails and is hereby dismissed in limine.

(Ajay Rastogi), J.

K.Khatri/2401CMA2005.